

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2
3 In the Matter of the Unlicensed Activity of:

No. 10F-BD061-SBD

4 **UNIVERSAL MOTOR SPORTS-MVD LLC**
5 **FKA UNIVERSAL MOTOR SPORTS LLC**
6 **AKA MOTORSPORTS UNIVERSAL AND**
7 **ERIC IRFAN, MANAGER**

7150 West Roosevelt Avenue, #101
Phoenix, Arizona 85043

**ORDER TO CEASE AND DESIST;
NOTICE OF OPPORTUNITY FOR
HEARING; CONSENT TO ENTRY OF
ORDER**

Respondents.

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9 The Superintendent of the Arizona Department of Financial Institutions (the
10 “Superintendent”), makes the following Findings of Fact and Conclusions of Law and enters the
11 following Order pursuant to Arizona Revised Statutes (“A.R.S.”) § 6-137.

12 Pursuant to Titles 6 and 41 of the Arizona Revised Statutes and Title 20, Chapter 4 of the
13 Arizona Administrative Code (“A.A.C.”), Respondents are hereby notified that they are entitled to a
14 hearing to contest the allegations set forth in this Order. The Request for Hearing shall be filed with
15 the Arizona Department of Financial Institutions (the “Department”) pursuant to A.R.S. § 6-137(D)
16 within **thirty (30) days** of service of this Order and shall identify with specificity the action or order
17 for which review is sought in accord with A.R.S. § 41-1092.03(B).

18 Pursuant to A.R.S. §§ 41-1092.01(D) and 41-1092.03(B), any person may appear on his or
19 her own behalf or by counsel. If Respondents are represented by counsel, the information required
20 by A.R.S. § 41-1092.03(B) shall be included in the Request for Hearing. Upon the filing of a
21 Request for Hearing, the Department shall issue a Notice of Hearing scheduling the matter for
22 hearing in accordance with A.R.S. § 41-1092.05. **Persons with disabilities may request**
23 **reasonable accommodations such as interpreters, alternative formats, or assistance with**
24 **physical accessibility.** Requests for special accommodations must be made as early as possible to
25 allow time to arrange the accommodations. If accommodations are required, call the Office of
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1 Administrative Hearings at (602) 542-9826.

2 Respondents have the right to request an Informal Settlement Conference, pursuant to A.R.S.
3 § 41-1092.06 by filing a written request no later than **twenty (20) days** before the scheduled hearing.
4 The conference will be held within **fifteen (15) days** after receipt of your request. If an Informal
5 Settlement Conference is requested, a person with the authority to act on behalf of the Department
6 will be present (the "Department Representative"). Please note that in requesting an Informal
7 Settlement Conference, Respondents waive any right to object to the participation of the Department
8 Representative in the final administrative decision of this matter, if it is not settled. In addition, any
9 written or oral statement made by Respondents at such informal settlement conference, including
10 written documentation created or expressed solely for purposes of settlement negotiations, are
11 inadmissible in any subsequent administrative hearing. (See A.R.S. § 41-1092.06 for rules regarding
12 informal settlement conferences.) Conversely, any written or oral statement made by Respondents
13 outside an Informal Settlement Conference is not barred from being admitted by the Department in
14 any subsequent hearing.

15 If Respondents do not request a hearing, this Order shall become final. If Respondents
16 request a hearing, the purpose of the hearing shall be to determine if grounds exist for: (1) the
17 issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the
18 violative conduct and to take the appropriate affirmative actions, within a reasonable period of time
19 prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts,
20 practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-
21 132; (3) an order to pay restitution of any fees earned in violation of A.R.S. §§ 44-281, *et seq.*; and
22 (4) an order or any other remedy necessary or proper for the enforcement of statutes and rules
23 regulating motor vehicle dealers and sales finance companies pursuant to A.R.S. §§ 6-123, 6-131
24 and 44-281 through 44-295.

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1 **FINDINGS OF FACT**

2 1. Respondent Universal Motor Sports-MVD LLC fka Universal Motor Sports LLC aka
3 Motorsports Universal ("Universal") is an Arizona limited liability company that is not and was not
4 at any time material herein authorized to transact business in Arizona as a motor vehicle dealer
5 within the meaning of A.R.S. §§ 44-281, *et seq.* The nature of Universal's business is that of a
6 motor vehicle dealer within the meaning of A.R.S. § 44-281(3).

7 2. Respondent Eric Irfan ("Mr. Irfan") is the Manager of Universal. Mr. Irfan is not and
8 was not at any time material herein authorized to transact business in Arizona as a motor vehicle
9 dealer within the meaning of A.R.S. §§ 44-281 *et seq.*

10 3. Neither Universal nor Mr. Irfan are exempt from licensure as a motor vehicle dealer
11 within the meaning of A.R.S. § 44-282(G).

12 4. On May 19, 2008, the Department received a consumer complaint regarding a go-cart
13 purchase from Universal. The Complainant alleged, among other things, the inability to operate the
14 alleged new vehicle two (2) days after purchasing the vehicle due to mechanical malfunctions,
15 mechanical failures continuing thereafter, poor customer service, and inadequate or incompetent
16 repair service.

17 5. On or about July 15, 2008, the Department wrote to Universal regarding its
18 investigation into Universal's operation of a motor vehicle dealer business without an Arizona Motor
19 Vehicle Dealer's license and requested a response by July 29, 2008.

20 6. On or about July 29, 2008, the Department received a response from Universal,
21 admitting they had conducted business without a license. Also in their response, Universal advised
22 the Department that, "[T]his [m]onth, we have taken the necessary corrective legal steps to form a
23 new LLC Business: UNIVERSAL Motor Sports-Motor Vehicle Division. The new Business will be
24 dedicated to the sale of Licensed Motor Vehicles for On Road Use. We are awaiting approval on
25 some of these applications, (we will provide you with copies of our applications upon request). It is
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1 our top priority to be in compliance with all Arizona Motor Vehicle Laws.”

2 7. On or about September 24, 2008, the Department requested specific information
3 regarding Universal’s unlicensed business activity.

4 8. Because the Department did not receive a response to its September 24, 2008 request
5 for information, on or about February 3, 2009, the Department sent a follow-up request via
6 facsimile.

7 9. Universal has refused to provide the Department with the information requested on
8 September 24, 2008 and February 3, 2009.

9 10. On or about March 31, 2009, the Department issued a subpoena *duces tecum* for
10 records to be produced to the Department on or before April 20, 2009. The Department has not
11 received returned mail from the United States Postal Service and Universal has refused to produce
12 the documents commanded by the Superintendent of the Department.

13 11. As of April 28, 2009, according to Universal’s website, located at
14 www.universalmotorsports.us, Universal continues to advertise motor vehicles and conduct motor
15 vehicle dealer business in the State of Arizona without a valid Motor Vehicle Dealer’s license.

16 12. As of September 28, 2009, Universal has not applied for or obtained a Motor Vehicle
17 Dealer’s license from the Department.

18 13. These Findings of Facts shall also serve as Conclusions of Law.

19 **CONCLUSIONS OF LAW**

20 1. Pursuant to Title 6 and Title 44, Chapter 2.1, of the Arizona Revised Statutes, the
21 Superintendent is charged with the duty to regulate all persons engaged in the motor vehicle dealer
22 business and with the enforcement of statutes, rules and regulations relating motor vehicle dealers.

23 2. Universal’s and Mr. Irfan’s conduct, as alleged above, constitutes engaging in motor
24 vehicle dealer activity in the State of Arizona without having first applied for and obtained a motor
25 vehicle dealer license under Chapter 2.1 of Title 44, in violation of A.R.S. § 44-282(A).

3. Neither Universal nor Mr. Irfan meet any of the exemptions to the licensing requirements set forth in A.R.S. § 44-282(G).

4. The violations set forth above constitute grounds for: (1) the issuance of an order pursuant to A.R.S. § 6-137 directing Respondents to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) an order to pay restitution of any fees earned in violation of A.R.S. §§ 44-281, *et seq.*; and (4) an order or any other remedy necessary or proper for the enforcement of statutes and rules regulating motor vehicle dealers and sales finance companies pursuant to A.R.S. §§ 6-123, 6-131 and 44-281 through 44-295.

ORDER

1. Universal Motor Sports-MVD LLC fka Universal Motor Sports LLC aka Motorsports Universal and Mr. Irfan shall immediately stop all motor vehicle dealer activity in Arizona until such time as Universal or Mr. Irfan has obtained a motor vehicle dealer license from the Superintendent as prescribed by A.R.S. § 44-282.

2. Universal Motor Sports-MVD LLC fka Universal Motor Sports LLC aka Motorsports Universal and Mr. Irfan shall pay to the Department a civil money penalty in the amount of **fifteen thousand dollars (\$15,000.00)**. Universal Motor Sports-MVD LLC fka Universal Motor Sports LLC aka Motorsports Universal and Mr. Irfan are jointly and severally liable for payment of the civil money penalty.

3. Mr. Irfan shall comply with all statutes and rules regulating Arizona motor vehicle dealers, A.R.S. §§ 44-281, *et seq.*

4. The provisions of this Order shall be binding upon Respondents, their employees, agents and other persons participating in the conduct of the affairs of Respondents.

...

5. This Order shall become effective upon service, and shall remain effective and enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated or set aside.

SO ORDERED this 16th day of November, 2009.

Thomas L. Wood
Acting Superintendent of Financial Institutions

By Thomas J. Giallanza
Thomas J. Giallanza
Interim Deputy Superintendent

CONSENT TO ENTRY OF ORDER

1. Respondents acknowledge that they have been served with a copy of the foregoing Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the same, are aware of their right to an administrative hearing in this matter, and have waived the same.

2. Respondents admit the jurisdiction of the Superintendent and consent to the entry of the foregoing Findings of Fact, Conclusions of Law, and Order.

3. Respondents state that no promise of any kind or nature has been made to induce them to consent to the entry of this Order, and that they have done so voluntarily.

4. Respondents agree to cease from engaging in the violative conduct set forth above in the Findings of Fact and Conclusions of Law.

5. Respondents acknowledge that the acceptance of this Agreement by the Superintendent is solely to settle this matter and does not preclude this Department, any other agency or officer of this state or subdivision thereof from instituting other proceedings as may be appropriate now or in the future.

6. Mr. Eric Irfan, Manager of Universal Motor Sports-MVD LLC fka Universal Motor Sports LLC aka Motorsports Universal, represents that he is the Manager and as such, has been authorized by Universal Motor Sports-MVD LLC fka Universal Motor Sports LLC aka Motorsports

1 Universal to consent to the entry of this Order on its behalf.

2 7. Respondents waive all rights to seek judicial review or otherwise to challenge or
3 contest the validity of this Cease and Desist Order.

4 DATED this _____ day of _____, 2009.

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By: _____

Eric Irfan, Manager
Universal Motor Sports-MVD LLC
fka Universal Motor Sports LLC
aka Motorsports Universal

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15 ORIGINAL of the foregoing filed this 16th day

of November, 2009, in the office of:

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Thomas L. Wood
Acting Superintendent
Arizona Department of Financial Institutions
ATTN: Susan Longo
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

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COPY mailed same date to:

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Erin O. Gallagher
Assistant Attorney General
Office of the Attorney General
1275 West Washington
Phoenix, AZ 85007

Thomas J. Giallanza, Acting Deputy Superintendent
Lori Mann, Senior Examiner
Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

1 Eric Irfan, Manager
Universal Motor Sports-MVD LLC
2 fka Universal Motor Sports LLC
aka Motorsports Universal
3 3102 W. Thomas Rd.
Phoenix, AZ 85017
4 Respondents

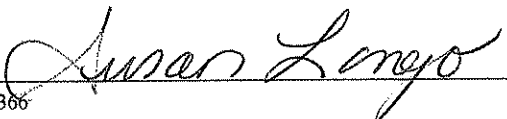
5 Eric Irfan, Manager
Universal Motor Sports-MVD LLC
6 fka Universal Motor Sports LLC
aka Motorsports Universal
7 42 N. Stapley Dr.
Mesa, AZ 85203
8 Respondents

9 Eric Irfan, Manager
Universal Motor Sports-MVD LLC
10 fka Universal Motor Sports LLC
aka Motorsports Universal
11 4505 E. 22nd St.
Tucson, AZ 85711
12 Respondents

13 AND COPY MAILED SAME DATE by
14 Certified Mail, Return Receipt Requested, to:

Eric Irfan, Manager
15 Universal Motor Sports-MVD LLC
fka Universal Motor Sports LLC
16 aka Motorsports Universal 1046 E. 22nd Street
7150 W. Roosevelt Ave., #101
17 Phoenix, AZ 85043
18 Respondents

19 Clint Desmond Reed, Statutory Agent for:
Universal Motor Sports-MVD LLC
20 fka Universal Motor Sports LLC
aka Motorsports Universal
21 4901 W. Fallen Leaf Ln.
Glendale, AZ 85310

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23 #517366